

Message Text

PAGE 01 USUN N 01194 01 OF 02 041857 Z

72

ACTION L-03

INFO OCT-01 IO-12 ADP-00 AF-10 ARA-11 EA-11 EUR-25 NEA-10

RSC-01 SS-15 NSC-10 NSF-04 GAC-01 ACDA-19 CIAE-00

DODE-00 PM-09 INR-10 NSAE-00 NASA-04 SCI-06 MC-02

PA-03 USIA-12 PRS-01 RSR-01 INRE-00 OTP-02 /183 W

----- 107150

P R 041714 Z APR 73

FM USMISSION USUN NY

TO SECSTATE WASHDC PRIORITY 7319

INFO AMEMBASSY MOSCOW

C O N F I D E N T I A L SECTION 1 OF 2 USUN 1194

E. O. 11652 GDS

TAGS: TSPA, PFOR, UN, UR

SUBJ: OUTER SPACE LEGAL: STATUS OF MOON TREATY
NEGOTIATIONS

1. SUMMARY. THIS TELEGRAM SETS FORTH THE CURRENT STATUS OF NEGOTIATIONS ON THE MOON TREATY IN THE UN OUTER SPACE LEGAL SUBCOMMITTEE. IF THE ITALIAN PROPOSAL ON POSSIBLE FUTURE EXPLOITATION OF NATURAL RESOURCES PROVES ACCEPTABLE TO THE US AND THE NON-ALIGNED, IT SHOULD BE POSSIBLE TO COMPLETE NEGOTIATION OF THE MOON TREATY ON A SATISFACTORY BASIS DURING THE CURRENT SESSION, WHICH IS SCHEDULED TO END 20 APRIL.

2. DETAILS. NATURAL RESOURCES. THE LEGAL SUBCOMMITTEE HAS NOW COMPLETED AN INITIAL SIX DAYS ON THE MOON TREATY AND TURNS FOR THE NEXT SIX TO REGISTRATION. THE MOST POTENTIALLY DIFFICULT MOON TREATY ISSUE RELATES TO THE QUESTION OF POSSIBLE FUTURE EXPLOITATION OF NATURAL RESOURCES ON THE MOON AND OTHER CELESTIAL BODIES, IF THIS CAN BE RESOLVED, THE OTHER PRINCIPAL REMAINING ISSUES OF SCOPE AND TITLE AND NOTIFICATION OF LUNAR AND CB MISSIONS SHOULD BE RESOLVED RELATIVELY EASILY AND WITHIN A DAY OR TWO. OUR 1191
CONFIDENTIAL

PAGE 02 USUN N 01194 01 OF 02 041857 Z

(NOTAL) SETS FORTH THE ITALIAN PROPOSAL AND REQUESTS AUTHORITY TO ACCEPT IT ON CONDITION THAT THE OTHER PARTI-

CIPANTS AGREE AND THAT THE OTHER REMAINING ISSUES ARE SATISFACTORILY RESOLVED.

3. THREE ADDITIONAL ASPECTS ON RESOURCE EXPLOITATION NEED TO BE REPORTED. (A) EXCEPT FOR THE QUESTION OF WHEN REPORTS ARE TO BE MADE, THE SUBCOMMITTEE AGREED LAST YEAR ON THE TERMS OF A U. S. PROPOSAL CALLING FOR LAUNCHING STATES TO REPORT ON THE TIME, PURPOSES, LOCATIONS, ORBITAL PARAMETERS, DURATION AND RESULTS OF EACH LUNAR OR CB MISSION. INDIA HAS NOW PROPOSED THAT THIS OBLIGATION SHOULD ALSO COVER THE DISCOVERY OF LUNAR OR CB "RESOURCES", AND THIS IS ATTRACTING CONSIDERABLE SUPPORT. WE WOULD LIKE TO BE ABLE TO ACCEPT THIS REPORTING OBLIGATIONS, WHICH WE UNDERSTAND IS CONSONANT WITH CURRENT U. S. PRACTICE, PROVIDED IT IS REWORKED TO RELATE TO THE DISCOVERY OF "NATURAL RESOURCES"; THE INDIAN WORD "RESOURCES" IS TOO BROAD AND COULD BE TOO DIFFICULT OF APPLICATION IN PRACTICE. (B) ARGENTINA HAS INTRODUCED A LONG TEXT ON RESOURCES, NOT NOW THE SUBJECT OF ACTIVE CONSIDERATION. ITS SECOND SENTENCE DEFINES THE CONCEPT UNHELPFULLY AS FOLLOWS: "ALL SUBSTANCE ORIGINATING ON THE MOON OR OTHER CB'S SHALL BE REGARDED AS NATURAL RESOURCES. THE SAME CHARACTER SHALL ATTACH TO ANY DEVELOPMENT UNDERTAKEN FROM OR ON THE MOON OR OTHER CB'S IN THE COMMUNICATIONS, ENERGY OR ANALOGOUS FIELDS." WE WOULD NOT WANT TO ACCEPT THIS. HOWEVER, ARGENTINA'S PAPER ALSO CONTAINS A PROPOSAL THAT MAY BECOME IMPORTANT IN THE NEGOTIATIONS, PARTICULARLY IF THERE IS TROUBLE OVER THE ITALIAN TEXT. THIS PART OF THE ARGENTINE PROPOSAL, WHICH WE BELIEVE IS REASONABLE AND WOULD LIKE TO HAVE RESERVE AUTHORITY TO ACCEPT, READS "THE UTILIZATION AND DEVELOPMENT OF THE NATURAL RESOURCES OF THE MOON AND OTHER CELESTIAL BODIES, PROVIDED THAT THEY ARE UNDERTAKEN IN CONFORMITY WITH THIS TREATY, SHALL BE LAWFUL ON THE UNDERSTANDING THAT THEIR MISUSE SHALL BE AVOIDED AND THAT THE RECOGNIZED RIGHTS OF OTHER STATES PARTIES SHALL NOT BE IMPAIRED." (C) IRAN HAS PROPOSED ADDING A PREAMBULAR STATEMENT THAT THE MOON IS THE COMMON HERITAGE OF MANKIND, STATING THAT THE "COMMON HERITAGE" CONCEPT SHOULD BE UNDERSTOOD MORE BROADLY THAN IN RELATIONS TO

CONFIDENTIAL

PAGE 03 USUN N 01194 01 OF 02 041857 Z

SHARING THE BENEFITS FROM LUNAR NATURAL RESOURCES, INDEED THAT IT SHOULD PROVIDE A "JURIDICAL FRAMEWORK" FOR THE ENTIRE TREATY. WASHINGTON CONSIDERATION OF THIS PROPOSAL WOULD BE USEFUL, SINCE IT MIGHT BECOME STATED CONDITION FOR LDC ACCEPTANCE OF ITALIAN COMPROMISE ARTICLE ON NATURAL RESOURCES.

4. SCOPE AND TITLE. THE SOVIETS HAVE TACITLY ACCEPTED THE U. S. INSISTENCE ON EXPANDING THE TREATY TO

COVER ACTIVITIES ON ALL CB'S WITHIN THE SOLAR SYSTEM, NOT JUST THE MOON. THE ONLY REMAINING ISSUE IS HOW THIS EXPANDED COVERAGE SHOULD BE PHRASED. IN CONNECTION WITH THE BRITISH COMPROMISE PROPOSAL (REPORTED USUN 1132, PARA 3), WE SPOKE TO UK REP FREELAND TO SEE WHETHER HE WOULD BE AMENABLE TO TWO CHANGES. (A) WE ASKED IF HE COULD SOFTEN HIS REFERENCE TO THE POSSIBILITY OF NEGOTIATING FUTURE " SEPARATE ARRANGEMENTS" FOR EXPLORATION AND USE OF A PARTICULAR CB BY STATING THAT SUCH ARRANGEMENTS SHOULD TAKE THE FORM OF A PROTOCOL TO THE PRESENT TREATY RATHER THAN A COMPLETELY SEPARATE TREATY. FREELAND SAID HE COULD ACCEPT REVISING HIS PROPOSAL TO REFER TO " SUPPLEMENTAL ARRANGEMENTS", WHICH WOULD ENCOMPASS THIS POSSIBILITY. (B) WE ALSO TOLD HIM WE PREFER OUR MORE STRAIGHTFORWARD PROPOSAL THAT " THE PROVISIONS OF THIS TREATY SHALL APPLY TO THE MOON, PLANETS AND OTHER CB'S WITHIN THE SOLAR SYSTEM, OTHER THAN THE EARTH...". TO HIS MORE INDIRECT " REFERENCE IN THIS TREATY TO THE MOON SHALL BE DEEMED ALSO TO APPLY TO THE PLANETS AND OTHER CB'S WITHIN THE SOLAR SYSTEM, EXCEPT THE EARTH..." HE DECLINED TO APPROACH THE USSR ON THIS POINT, MAINTAINING THAT THERE IS NO DIFFERENCE IN MEANING BETWEEN HIS TEXT AND OURS BUT THAT CHANGING THIS ASPECT OF HIS PROPOSAL WOULD CAUSE HIS EFFORT AT A MUTUALLY ACCEPTABLE COMPROMISE TO FAIL.

5. ON THE RELATED ISSUE OF TITLE, THE SOVIETS HAVE AGREED TO OUR INSISTENCE THAT THE TITLE FAIRLY REFLECT THE FACT THAT THE TREATY DEALS NOT ONLY WITH THE MOON BUT WITH OTHER CB'S WITHIN THE SOLAR SYSTEM. THE PRECISE WORKING WILL NOT BE RESOLVED UNTIL A SATISFACTORY SCOPE TEXT HAS BEEN AGREED.

CONFIDENTIAL

ADP000

PAGE 01 USUN N 01194 02 OF 02 050045 Z

72

ACTION L-03

INFO OCT-01 IO-12 ADP-00 AF-10 ARA-11 EA-11 EUR-25 NEA-10

RSC-01 SS-15 NSC-10 NSF-04 GAC-01 ACDA-19 CIAE-00

DODE-00 PM-09 INR-10 NSAE-00 NASA-04 SCI-06 MC-02

PA-03 USIA-12 PRS-01 RSR-01 INRE-00 OTP-02 /183 W

----- 110098

P R 041714 Z APR 73

FM USMISSION USUN NY

TO SECSTATE WASHDC PRIORITY 7320

INFO AMEMBASSY MOSCOW

CONFIDENTIAL SECTION 2 OF 2 USUN 1194

6. REPORTING LUNAR AND CB MISSION. THE BRITISH AND MEXICANS PARTICULARLY LIKE OUR PROPOSAL FOR NOTIFICATION OF AN INTENTION TO LAUNCH A MISSION 60 DAYS IN ADVANCE, AS DOES THE MAJORITY OF THE SUBCOMMITTEE, BUT THERE IS WIDESPREAD AWARENESS THAT THE USSR WILL NOT ACCEPT ADVANCE NOTIFICATION IN ANY FORM. WE HAVE NOT YET USED THE AUTHORITY CONTAINED IN OUR INSTRUCTIONS TO INDICATE THAT WE CAN AGREE TO NOTIFICATION PRIOR TO OR AS SOON AS POSSIBLE AFTER LAUNCH BECAUSE WE DO NOT WISH TO PUT IN THIS CHIP UNTIL THE PROSPECT OF SOVIET AGREEMENT ON SCOPE AND LDC AGREEMENT ON EXPLOITATION OF NATURAL RESOURCES SEEMS TO BE FURTHER ALONG. IN PARTICULAR, WE BELIEVE THAT WE SHOULD NOT MAKE CONSESSION ON NOTIFICATION BEFORE AGREEMENT ON RESOURCES IS ACHIEVED. HOWEVER, IN ORDER TO ENCOURAGE AGREEMENT BY OTHERS ON POINTS OF IMPORTANCE TO THE US, WE WILL SOON NEED TO BEGIN TO HINT THAT OUR POSITION ON ADVANCE NOTIFICATION WILL NOT BE INFLEXIBLE IF OTHERS MEET US ON THESE POINTS.

7. DEPOSITARY PROVISIONS. ARGENTINA AND A NUMBER OF OTHERS ARE URGING THAT IT IS NOW TIMELY TO RETURN THE DEPOSITARY FUNCTION TO THE UN. THE BRITISH SAY THEY WILL BE WILLING TO DO SO AT SUCH TIME AS EAST GERMANY HAS BEEN ADMITTED TO UN MEMBERSHIP, BUT NOT UNTIL THEN.
CONFIDENTIAL

PAGE 02 USUN N 01194 02 OF 02 050045 Z

WE AGREE WITH THE UK DELEGATION THAT IT WOULD BE UNDERSIRABLE TO CONSIDER IN A PUBLIC FORUM REPLACING THE TRIPLE DEPOSITARY FORMULA.

8. WE REPORT THE FOLLOWING ADDITIONAL MATTERS FOR THE RECORD. THE PARTICIPANTS HAVE ACCEPTED A WELL-DRAFTED INDIAN PROPOSAL ON INTERNATIONAL COOPERATION IN SCIENTIFIC INVESTIGATION WHICH READS: QUOTE STATES PARTIES SHALL PROMOTE INTERNATIONAL COOPERATION AND MUTUAL ASSISTANCE IN SCIENTIFIC INVESTIGATION CONCERNING THE MOON, IN PARTICULAR, (A) BY PARTICIPATION IN INTERNATIONAL PROGRAMS AND BY ENCOURAGING COOPERATION IN SCIENTIFIC INVESTIGATION BY PERSONNEL OF DIFFERENT COUNTRIES; (B) BY DISSEMINATION OF THE RESULTS OF RESEARCH PROGRAMS THROUGH INTERNATIONAL CHANNELS; (C) BY COOPERATION IN MEASURES TO STRENGTHEN RESEARCH CAPABILITIES OF DEVELOPING COUNTRIES, INCLUDING THE PARTICIPATION OF THEIR NATIONS IN RESEARCH PROGRAMS. END QUOTE.

9. LIABILITY. THE PARTICIPANTS HAVE ACCEPTED THE US PROPOSAL REPORTED USUN 1133.

10. INTERNATIONAL LAW STANDARD. THE PARTICIPANTS HAVE AGREED THAT ART II OF THE TREATY, WHICH CONTAINS THE BASIC PROVISION ON INTERNATIONAL LAW ALONG THE LINES OF THE OUTER SPACE TREATY, SHOULD READ " ALL ACTIVITIES ON THE MOON, INCLUDING ITS EXPLORATION AND USE, SHALL BE CARRIED OUT IN ACCORDANCE WITH INTERNATIONAL LAW, INCLUDING THE CHARTER OF THE UN AND TAKING INTO ACCOUNT THE DECLARATION ON PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND COOPERATION AMONG STATES IN ACCORDANCE WITH THE CHARTER OF THE UN, ADOPTED BY THE GENERAL ASSEMBLY ON 24 OCT 1970, IN THE INTEREST OF MAINTAINING INTERNATIONAL PEACE AND SECURITY AND PROMOTING INTERNATIONAL COOPERATION AND MUTUAL UNDERSTANDING AND WITH DUE REGARD TO THE CORRESPONDING INTERESTS OF ALL OTHER STATES PARTIES."

11. RELATION TO OTHER SPACE TREATIES. THE PARTICIPANTS HAVE ACCEPTED THE AUSTRALIAN POSITION THAT THE TREATY WOULD BEST INCLUDE NO PROVISION ON WHAT HAPPENS IN THE CONFIDENTIAL

PAGE 03 USUN N 01194 02 OF 02 050045 Z

EVENT OF AN APPARENT CONFLICT OR DISPARITY BETWEEN THE

APPLICATION OF ONE OF ITS PROVISIONS WITH THE APPLICATION OF, E. G., A PROVISION OF THE OUTER SPACE TREATY. AUSTRALIA HAS CONSISTENTLY MAINTAINED THAT WESTERN INTERESTS ARE BEST SERVED BY LEAVING THE MATTER COMPLETELY OPEN SO AS TO PERMIT FLEXIBLE INVOCATION OF THE OUTER SPACE TREATY, ASTRONAUT AGREEMENT OF LIABILITY CONVENTION IN THE UNLIKELY EVENT THAT A CONFLICT OR DISPARITY ARISES IN THE FUTURE.
SCALI

CONFIDENTIAL

<< END OF DOCUMENT >>

Message Attributes

Automatic Decaptioning: X
Capture Date: 02 APR 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 04 APR 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: thigpegh
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973USUNN01194
Document Source: ADS
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Film Number: n/a
From: USUN NY
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19730459/abqcdywk.tel
Line Count: 255
Locator: TEXT ON-LINE
Office: n/a
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: thigpegh
Review Comment: n/a
Review Content Flags:
Review Date: 25 SEP 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <25-Sep-2001 by smithrj>; APPROVED <01-Nov-2001 by thigpegh>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: OUTER SPACE LEGAL: STATUS OF MOON TREATY NEGOTIATIONS
TAGS: TSPA, PFOR, UN, UR
To: STATE INFO MOSCOW
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005